

MEMO ENDORSED

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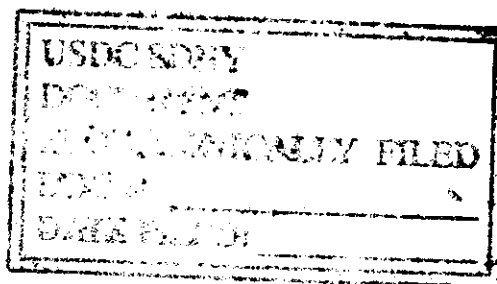
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July 28, 2008  
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Hon. George A. Yanthis  
Magistrate Judge  
United States District Court  
300 Quarropas Street  
White Plains, New York 10601

Re: Rosendale v. Brusie et al  
07 CV 8149 (CLB)(GAY)

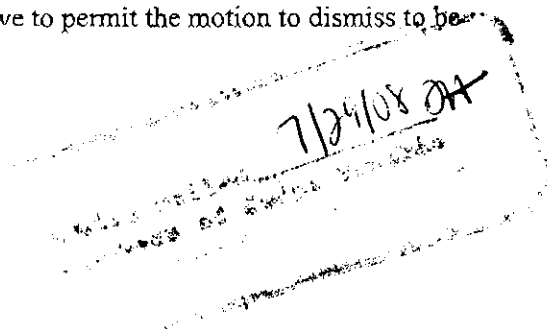


Dear Judge Yanthis:

I represent the Defendants in the above-captioned matter. I received Mr. Rosendale's letter dated July 23, 2008 and the Court's response today, July 28, 2008. Mr. Rosendale's contention that a motion for summary judgment is presently pending before the Court is entirely untrue.

Instead, in response to a letter from me to the Court, dated October 24, 2007, I advised the Court that I had just been retained to represent the Defendants and intended to file a motion to dismiss the complaint pursuant to Rule 12(b)(6). I requested permission to move by October 26, 2007. I noted in that letter that:

Rosendale filed a motion for partial summary judgment on October 23, 2007, returnable on November 9, 2007. He did not comply with the Court's Individual Rule 2(A). I believe that a motion for summary judgment, while apparently not barred by the Federal Rules at this juncture, is inappropriate until the Court has had an opportunity to rule on the Defendants' 12(b)(6) motion. At a minimum, should the Court permit the summary judgment motion to proceed, I would request a conference so that the timing and briefing of the motion and a cross-motion that would be made can be coordinated. However, I reiterate that it would seem to be more productive to permit the motion to dismiss to be



*No further correspondence. The pending motion will be determined at previously stated. 7/29/08*